

DICKSTEIN SHAPIRO LLP  
 STEPHEN A. DVORKIN (SD-0341)  
 JOHN P. WINSBRO (JW-5211)  
 1177 Avenue of the Americas  
 New York, New York 10036  
 Telephone: (212) 277-6500

Attorneys for the Plaintiff,  
 Petroterminal de Panama, S.A.

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

|  |   |                   |
|--|---|-------------------|
| -----                                    | X |                   |
|  | : |                   |
| PETROTERMINAL DE PANAMA, S.A.,           | : | 08 CV 00547 (JSR) |
|  | : |                   |
| Plaintiff,                               | : |                   |
|  | : |                   |
| – against –                              | : |                   |
|  | : |                   |
| HOUSTON CASUALTY COMPANY, NATIONAL       | : |                   |
| LIABILITY & FIRE INSURANCE COMPANY a/k/a | : |                   |
| NATIONAL FIRE & LIABILITY INSURANCE      | : |                   |
| COMPANY, LIBERTY MUTUAL INSURANCE        | : |                   |
| COMPANY, GREAT AMERICAN INSURANCE        | : |                   |
| COMPANY OF NEW YORK, INDEMNITY           | : |                   |
| INSURANCE COMPANY OF NORTH AMERICA, and  | : |                   |
| CONTINENTAL INSURANCE COMPANY,           | : |                   |
|  | : |                   |
| Defendants.                              | : |                   |
|  | : |                   |
| -----                                    | X |                   |

STATE OF NEW YORK )  
 COUNTY OF NEW YORK : ss:  
 SOUTHERN DISTRICT OF NEW YORK )

**AFFIDAVIT OF JOHN P. WINSBRO**

1. I am an attorney admitted to practice before the courts of New York, and before this Court, and am a Counsel at Dickstein Shapiro LLP, attorneys for the plaintiff, Petroterminal de Panama, S.A. (“PTP”), in the above-entitled action. I submit this affidavit in support of PTP’s motion to impose sanctions upon the defendants, Houston Casualty Company; National Liability

& Fire Insurance Company (a/k/a National Fire & Liability Insurance Company); Liberty Mutual Insurance Company; Great American Insurance Company of New York; Indemnity Insurance Company of North America; and Continental Insurance Company (collectively, "Defendants"), under Rule 37 of the Federal Rules of Civil Procedure, by reason of Defendants' complete disregard of their discovery obligations.

2. Stephen Dvorkin and I attended the March 20, 2008 scheduling conference in this matter. Immediately following that conference, Mr. Dvorkin raised with counsel for the Defendants, Jay Lonero, Esq. and Gary Centola, Esq., that Defendants had yet to serve the Initial Disclosures that were due on March 13, 2008. Messrs. Lonero and Centola indicated a belief that Defendants' Initial Disclosures were not due as yet but added that Defendants would serve the Initial Disclosures in the near, if not immediate, future.

3. In a Monday, May 12, 2008 telephone conversation, I raised Defendants' continuing failure to serve their Initial Disclosures with Jeffrey Bridger, another attorney who represents Defendants in this matter. Mr. Bridger stated that he would check on the status of Defendants' Initial Disclosures. I did not hear anything further from Mr. Bridger that day, and on the evening of May 12 sent Mr. Bridger a follow-up email. A true and correct copy of my May 12, 2008 7:39 pm email is appended to this Affidavit as Exhibit A.

4. I likewise heard nothing from Mr. Bridger on Tuesday, May 13. Accordingly, on the morning of Wednesday, May 14, I sent Mr. Bridger another email forwarding my earlier email inquiry entitled "Initial Disclosures." A true and correct copy of my May 14, 2008 9:24 am email is appended to this Affidavit as Exhibit B.

5. Mr. Bridger responded to this latest inquiry in an email that I received at 10:44 am on the same day. In that e-mail, Mr. Bridger explained that "[t]he disclosures I have drafted have

gone MIA, so I am re-doing them to go out, I expect, this evening.” A true and correct copy of the referenced email is appended to this Affidavit as Exhibit C.

6. Despite Mr. Bridger’s representation, PTP did not receive Initial Disclosures from Defendants at any time before July 14, 2008 – after the Court ordered Defendants’ counsel to file and serve their Initial Disclosures.

7. I also communicated directly with Defendants’ counsel concerning their responses to PTP’s First Set of Document Requests and First Set of Interrogatories. PTP served those discovery requests on May 16, 2008. True and correct copies of my May 16, 2008 emails forwarding those requests to Defendants’ counsel (and advising of the simultaneous service of the requests by Federal Express) are appended to this Affidavit as Exhibit D.

8. On June 16, 2008, Stephen Dvorkin and I received an email from Mr. Bridger requesting a one-week extension of time in which to respond to the document requests and interrogatories that PTP had served on May 16. In that email, Mr. Bridger represented that Defendants had “been working diligently to provide responses” to PTP’s discovery requests and had “gathered what we believe is all information responsive to your requests.” Mr. Bridger nonetheless asked for an additional week for the reason that Defendants had “not yet completed our preparation of [the information] for production with written responses.” A true and correct copy of Mr. Bridger’s June 16, 2008 6:20 pm e-mail is appended to this Affidavit as Exhibit E.

9. I responded to Mr. Bridger’s request in an email sent the following day. In that email, I advised Mr. Bridger that PTP was agreeable to “extending the deadline [for Defendants’ discovery responses] by an additional week, that is, until Wednesday, June 25, but will not be in a position to grant any further extensions in this regard.” A true and correct copy of my June 17, 2008 2:20 pm e-mail to Mr. Bridger is appended to this Affidavit as Exhibit F.

10. In an e-mail sent the same day, Mr. Bridger acknowledged PTP's "forbearance" and added that "I am sure we will have the responses to you by or before the 25th." A true and correct copy of Mr. Bridger's June 17, 2008 2:23 pm e-mail is appended to this Affidavit as Exhibit G.

11. PTP did not receive any responses to its document requests and interrogatories on or before the agreed June 25, 2008 deadline. In fact, PTP did not receive those responses until July 14, 2008 – after the Court ordered Defendants to respond to PTP's outstanding discovery requests.

  
JOHN P. WINSBRO

Sworn to before me this  
25th day of July 2008

  
Notary Public

**ALDEN T. ONEIL**  
Notary Public, State of New York  
No. 010NS148367  
Qualified in New York County  
Commission Expires May 8, 2010

# Exhibit A

**Winsbro, John**

---

**From:** Winsbro, John  
**Sent:** Monday, May 12, 2008 7:39 PM  
**To:** 'Jeff Bridger'  
**Subject:** Initial Disclosures

Hi Jeff -- Just following up on our telephone conversation of this morning. Please let me know the status when you get a chance.

Thanks,

Jack

**John P. Winsbro**  
Counsel  
Dickstein Shapiro LLP  
1177 Avenue of the Americas | New York, NY 10036  
Tel (212) 277-6683 | Fax (212) 277-6501  
[winsbroj@dicksteinshapiro.com](mailto:winsbroj@dicksteinshapiro.com)

7/25/2008

# Exhibit B

**Winsbro, John**

---

**From:** Winsbro, John  
**Sent:** Wednesday, May 14, 2008 9:24 AM  
**To:** 'Jeff Bridger'  
**Subject:** FW: Initial Disclosures

Jeff?

---

**From:** Winsbro, John  
**Sent:** Monday, May 12, 2008 7:39 PM  
**To:** 'Jeff Bridger'  
**Subject:** Initial Disclosures

Hi Jeff -- Just following up on our telephone conversation of this morning. Please let me know the status when you get a chance.

Thanks,

Jack

**John P. Winsbro**  
Counsel  
Dickstein Shapiro LLP  
1177 Avenue of the Americas | New York, NY 10036  
Tel (212) 277-6683 | Fax (212) 277-6501  
[winsbroj@dicksteinshapiro.com](mailto:winsbroj@dicksteinshapiro.com)

7/25/2008



# Exhibit C

**Winsbro, John**

---

**From:** Jeff Bridger [jbridger@lpwsl.com]  
**Sent:** Wednesday, May 14, 2008 10:44 AM  
**To:** Winsbro, John  
**Subject:** Re: FW: Initial Disclosures

My apologies for the delay in getting back to you, Jack. The disclosures I drafted have gone MIA, so I am re-doing them to go out, I expect, this evening. If it is agreeable to you, we would like to push service of initial written discovery to Mon., 19 May, as we briefly discussed.

By the way, we are also sending Bshoot's payment on PTP's cost clause claim via overnight. Should you wish to discuss any aspect of this matter, please don't hesitate to call or write. Thanks very much for your consideration.

Respectfully,

Jeff Bridger

R. Jeffrey Bridger  
Larzelere Picou Wells Simpson Lonero, LLC  
Two Lakeway Center - Suite 1100  
3850 N. Causeway Blvd.  
Metairie, LA 70002  
Tel. No. 504-834-6500  
Fax No. 504-834-6565

This e-mail transmission, and any documents, files or e-mail messages attached are deemed to contain confidential information that is attorney work product or legally privileged and may also be protected by the Electronic Communications Privacy Act, 18 U.S.C.A. §§ 2510-2521. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED.

~~~~~

Internal Revenue Service regulations provide that a taxpayer may rely only on formal written advice meeting specific requirements to avoid federal tax penalties. Any tax advice in the text of this message, or in any attachment, does not meet those requirements and is neither intended nor written to be used, and cannot be used, by any recipient as tax advice and/or to avoid penalties that may be imposed by the I.R.S.

~~~~~

If you have received this transmission in error, please notify R. Jeffrey Bridger at telephone 504-834-6500 (fax 504-834-6565) immediately, and destroy the original transmission and its attachments without reading them.

>>> "Winsbro, John" <WinsbroJ@dicksteinshapiro.com> 5/14/2008 8:24 AM >>>

Jeff?

---

7/25/2008

**From:** Winsbro, John  
**Sent:** Monday, May 12, 2008 7:39 PM  
**To:** 'Jeff Bridger'  
**Subject:** Initial Disclosures

Hi Jeff -- Just following up on our telephone conversation of this morning. Please let me know the status when you get a chance.

Thanks,

Jack

**John P. Winsbro**  
Counsel  
Dickstein Shapiro LLP  
1177 Avenue of the Americas | New York, NY 10036  
Tel (212) 277-6683 | Fax (212) 277-6501  
[winsbroj@dicksteinshapiro.com](mailto:winsbroj@dicksteinshapiro.com)

-----  
This e-mail message and any attached files are confidential and are intended solely for the use of the addressee(s) named above. This communication may contain material protected by attorney-client, work product, or other privileges. If you are not the intended recipient or person responsible for delivering this confidential communication to the intended recipient, you have received this communication in error, and any review, use, dissemination, forwarding, printing, copying, or other distribution of this e-mail message and any attached files is strictly prohibited. Dickstein Shapiro reserves the right to monitor any communication that is created, received, or sent on its network. If you have received this confidential communication in error, please notify the sender immediately by reply e-mail message and permanently delete the original message.

To reply to our email administrator directly, send an email to [postmaster@dicksteinshapiro.com](mailto:postmaster@dicksteinshapiro.com)

Dickstein Shapiro LLP  
<http://www.DicksteinShapiro.com>

=====

#### NOTICE OF DOMAIN CHANGE

Effective 15 March 2008, Larzelere Picou Wells Simpson Lonerio, LLC changed its primary domain name to [lpwsl.com](http://lpwsl.com). Current E-mail names will remain the same, but the email domain will change. Thus, [admin@lpw-law.com](mailto:admin@lpw-law.com) will now be [admin@lpwsl.com](mailto:admin@lpwsl.com). Please update your address book. LPWSL will continue to accept e-mail at the [lpw-law.com](http://lpw-law.com)

7/25/2008

domain for a time to support this change.  
Thank You  
Postmaster LPWSL

#### CONFIDENTIALITY NOTICE

This E-mail transmission may contain confidential information that is protected by the attorney-client privilege or work-product doctrine. The information is intended only for the person named above. If you have received this transmission in error, please immediately notify us and destroy the transmission.

7/25/2008

# Exhibit D

**Winsbro, John**

---

**From:** Winsbro, John  
**Sent:** Friday, May 16, 2008 6:47 PM  
**To:** Jay Lonero; 'Jeff Bridger'  
**Cc:** Dvorkin, Stephen  
**Subject:** PTP v Houston Casualty Co., et al: Plaintiffs' First Set of Interrogatories  
**Attachments:** Plaintiff's First Set of Interrogatories.pdf

Jay and Jeff -- Here is a copy of the interrogatories that we served today by Federal Express. In a separate e-mail, I'll forward a copy of the document requests that we also served earlier today.

Regards,

Jack

7/25/2008

**Winsbro, John**

---

**From:** Winsbro, John  
**Sent:** Friday, May 16, 2008 6:49 PM  
**To:** Jay Lonerio; 'Jeff Bridger'  
**Cc:** Dvorkin, Stephen  
**Subject:** PTP v Houston Casualty co., et al.: Plaintiff's First Set of Requests for Production of Documents  
**Attachments:** Plaintiff's First Request For Production of Documents.pdf

7/25/2008

# Exhibit E



**Winsbro, John**

---

**From:** Jeff Bridger [jbridger@lpwsl.com]  
**Sent:** Monday, June 16, 2008 6:20 PM  
**To:** Dvorkin, Stephen; Winsbro, John  
**Subject:** PTP Oil Spill 2/4/07 Our File No. 07166

Gentlemen:

We have been working diligently to provide responses to your initial discovery in this matter while also responding to the claims and supplemental information PTP has submitted. While we have gathered what we believe is all information responsive to your requests, we have not yet completed our preparation of same for production with written responses. We, therefore, request a one week extension of time to provide responses to PTP's initial discovery and will provide same as soon as possible. I would appreciate your response to this request at your earliest convenience. Thank you for your consideration.

Respectfully,

Jeff Bridger

R. Jeffrey Bridger  
Larzelere Picou Wells Simpson Lonero, LLC  
Two Lakeway Center - Suite 1100  
3850 N. Causeway Blvd.  
Metairie, LA 70002  
Tel. No. 504-834-6500  
Fax No. 504-834-6565

This e-mail transmission, and any documents, files or e-mail messages attached are deemed to contain confidential information that is attorney work product or legally privileged and may also be protected by the Electronic Communications Privacy Act, 18 U.S.C.A. §§ 2510-2521. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED.

~~~~~  
Internal Revenue Service regulations provide that a taxpayer may rely only on formal written advice meeting specific requirements to avoid federal tax penalties. Any tax advice in the text of this message, or in any attachment, does not meet those requirements and is neither intended nor written to be used, and cannot be used, by any recipient as tax advice and/or to avoid penalties that may be imposed by the I.R.S.

~~~~~  
If you have received this transmission in error, please notify R. Jeffrey Bridger at telephone 504-834-6500 (fax 504-834-6565) immediately, and destroy the original transmission and its attachments without reading them.

**NOTICE OF DOMAIN CHANGE**

Effective 15 March 2008, Larzelere Picou Wells Simpson Lonero, LLC changed its primary domain name to lpwsl.com. Current E-mail names will remain the same, but the email domain will change. Thus, admin@lpw-law.com will now be admin@lpwsl.com. Please update your address book. LPWSL will continue to accept e-mail at the lpw-law.com

7/25/2008

domain for a time to support this change.  
Thank You  
Postmaster LPWSL

#### CONFIDENTIALITY NOTICE

This E-mail transmission may contain confidential information that is protected by the attorney-client privilege or work-product doctrine. The information is intended only for the person named above. If you have received this transmission in error, please immediately notify us and destroy the transmission.

7/25/2008

# Exhibit F

**Winsbro, John**

---

**From:** Winsbro, John  
**Sent:** Tuesday, June 17, 2008 2:20 PM  
**To:** 'Jeff Bridger'  
**Cc:** Dvorkin, Stephen  
**Subject:** PTP v Houston Casualty, et al.

Jeff -- By my calculations, the bumbershoot insurers' responses to PTP's document requests and interrogatories are due Wednesday, June 18. As also discussed, we are extending the deadline by an additional week, that is, until Wednesday, June 25, but will not be in a position to grant any further extensions in this regard.

Jack

**John P. Winsbro**  
Counsel  
Dickstein Shapiro LLP  
1177 Avenue of the Americas | New York, NY 10036  
Tel (212) 277-6683 | Fax (212) 277-6501  
[winsbroj@dicksteinshapiro.com](mailto:winsbroj@dicksteinshapiro.com)

7/25/2008

# Exhibit G

**Winsbro, John**

---

**From:** Jeff Bridger [jbridger@lpwsl.com]  
**Sent:** Tuesday, June 17, 2008 2:23 PM  
**To:** Winsbro, John  
**Subject:** Re: PTP v Houston Casualty, et al.

Jack:

Thanks very much for your forbearance. I am sure we will have the responses to you by or before the 25th. Have not yet heard back from Stasi International regarding the slight change in the Panama interview schedule, but do not anticipate a problem. Will confirm soonest. Please feel free to call should you wish to discuss any aspect of this matter.

Respectfully,

Jeff Bridger

R. Jeffrey Bridger  
Larzelere Picou Wells Simpson Lonero, LLC  
Two Lakeway Center - Suite 1100  
3850 N. Causeway Blvd.  
Metairie, LA 70002  
Tel. No. 504-834-6500  
Fax No. 504-834-6565

This e-mail transmission, and any documents, files or e-mail messages attached are deemed to contain confidential information that is attorney work product or legally privileged and may also be protected by the Electronic Communications Privacy Act, 18 U.S.C.A. §§ 2510-2521. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED.

~~~~~  
Internal Revenue Service regulations provide that a taxpayer may rely only on formal written advice meeting specific requirements to avoid federal tax penalties. Any tax advice in the text of this message, or in any attachment, does not meet those requirements and is neither intended nor written to be used, and cannot be used, by any recipient as tax advice and/or to avoid penalties that may be imposed by the I.R.S.

~~~~~  
If you have received this transmission in error, please notify R. Jeffrey Bridger at telephone 504-834-6500 (fax 504-834-6565) immediately, and destroy the original transmission and its attachments without reading them.

>>> "Winsbro, John" <WinsbroJ@dicksteinshapiro.com> 6/17/2008 1:19 PM >>>

Jeff -- By my calculations, the bumbershoot insurers' responses to PTP's document requests and interrogatories are due Wednesday, June 18. As also discussed, we are extending the deadline by an additional week, that is, until Wednesday, June 25, but will not be in a position to grant any further extensions in this regard.

Jack

7/25/2008

**John P. Winsbro**

Counsel  
Dickstein Shapiro LLP  
1177 Avenue of the Americas | New York, NY 10036  
Tel (212) 277-6683 | Fax (212) 277-6501  
[winsbroj@dicksteinshapiro.com](mailto:winsbroj@dicksteinshapiro.com)

-----  
This e-mail message and any attached files are confidential and are intended solely for the use of the addressee(s) named above. This communication may contain material protected by attorney-client, work product, or other privileges. If you are not the intended recipient or person responsible for delivering this confidential communication to the intended recipient, you have received this communication in error, and any review, use, dissemination, forwarding, printing, copying, or other distribution of this e-mail message and any attached files is strictly prohibited. Dickstein Shapiro reserves the right to monitor any communication that is created, received, or sent on its network. If you have received this confidential communication in error, please notify the sender immediately by reply e-mail message and permanently delete the original message.

To reply to our email administrator directly, send an email to [postmaster@dicksteinshapiro.com](mailto:postmaster@dicksteinshapiro.com)

Dickstein Shapiro LLP  
<http://www.DicksteinShapiro.com>

=====

**NOTICE OF DOMAIN CHANGE**

Effective 15 March 2008, Larzelere Picou Wells Simpson Lonero, LLC changed its primary domain name to [lpwsl.com](http://lpwsl.com). Current E-mail names will remain the same, but the email domain will change. Thus, [admin@lpw-law.com](mailto:admin@lpw-law.com) will now be [admin@lpwsl.com](mailto:admin@lpwsl.com). Please update your address book. LPWSL will continue to accept e-mail at the [lpw-law.com](http://lpw-law.com) domain for a time to support this change.

Thank You  
Postmaster LPWSL

**CONFIDENTIALITY NOTICE**

This E-mail transmission may contain confidential information that is protected by the attorney-client privilege or work-product doctrine. The information is intended only for

7/25/2008

the person named above. If you have received this transmission in error, please immediately notify us and destroy the transmission.

7/25/2008